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EXTRAORDINARY

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PART II—Section 2

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पाल संलग्न थी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed
as a separate compilation

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the 2nd December, 1977:—

BILL NO. XI OF 1977

A Bill to amend the Trade and Merchandise Marks Act, 1958.

Be it enacted by Parliament in the Twenty-eighth year of the Republic of India as follows:—

1. This Act may be called the Trade and Merchandise Marks Short title.
(Amendment) Act, 1977.

43 of 1958. 2. After section 88 of the Trade and Merchandise Marks Act, 1958 Insertion of new section 88A.
(hereinafter referred to as the principal Act), the following section shall be inserted, namely:—

2 of 1974. "88-A Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences mentioned in Chapter X of this Act shall be deemed to be cognizable" Offences to be cognizable

3 Sub-section (1) of section 89 of the principal Act shall be omitted.

Amendment of section 89.

STATEMENT OF OBJECTS AND REASONS

Offences under the Trade and Merchandise Act, 1958, have increased enormously during the last few years. As they are non-cognizable, it is difficult to bring the culprits to book. By the time a complaint is filed and search warrant is obtained, the goods disappear. It is, therefore, necessary to make these offences cognizable.

Hence this Bill.

VITHAL GADGIL.

BILL NO. XII OF 1977

A Bill to provide for the prevention of the imposition of social disabilities by the members of a community individually or collectively on a member or members of their own community, to provide for penalties for such an act or acts and for matters connected therewith and incidental thereto.

WHEREAS it has come to notice that the practice of imposing social disabilities prevails in certain communities, which amongst other things deprives their members of the rights and privileges to which they are entitled by reason of birth or otherwise and which results in flagrant violation of their fundamental rights as citizens of this country;

AND WHEREAS in keeping with the spirit of social change and democratic set up of our country and in the larger public interest it is expedient to prevent the imposition of such social disabilities and to provide penalties for such an act or acts and for matters connected therewith;

Be it enacted by Parliament in the Twenty-eighth year of the Republic of India as follows:—

1. (1) This Act may be called the Prevention of Social Disabilities Act, 1977
- (2) It extends to the whole of India.
- Short title and extent,

Definitions

2. In this Act, unless the context otherwise requires,—

(a) "community" means a group of members who are connected together by birth, conversion or performance of religious rites or ceremonies or who profess the same religion or belong to the same religious creed and include a caste or sub-caste;

(b) "member" means, a person, whether male or female, who is a member of any community

Imposition of social disabilities.

3. A member shall be deemed to have imposed social disability on another member of his community if he—

(a) denies, prevents or obstructs or causes to deny, prevent or obstruct any member of his community from having access to, or from using, any place of worship or prayers or any place intended to be used for performing any religious ceremony or rite, prevalent or practised in his community;

(b) prevents or obstructs or causes to prevent or obstruct any member of his community from having access to, or from using, any place used or intended to be used for a charitable, religious or public purpose and established run, or maintained wholly or partly by his community for, and on behalf of, the community and which is normally available for use to, or by, any member of his community;

(c) prevents or obstructs or causes to prevent or obstruct any member of his community from enjoying any benefit under a charitable trust or Wakf created for the benefit of his community;

(d) prevents or obstructs or causes to prevent or obstruct any member of his community from having access to, or using, the facilities of any educational institution, medical institution, community hall, club hall, cemetery, burial ground or any other place used by, or intended to be used by, or for the benefit of, his community;

(e) prevents or obstructs or causes to prevent or obstruct any member of his community from observing any social or religious custom or usage or ceremony or from taking a part in a social or religious functions congregation, assembly, meeting or procession;

(f) prevents or obstructs or causes to prevent or obstruct any member of his community from establishing or maintaining such social professional or business relations as he would ordinarily establish or maintain with the other members of his community;

(g) incites, provokes, or encourages any member of his community directly or indirectly to sever social, religious, professional or business relations with any other member or members of his community;

(h) refuses or denies or causes to refuse or deny to any member of his community the right to perform such marriage, funeral or other religious ceremonies and rites as the members of his community usually and ordinarily perform;

(i) prevents or obstructs or causes to prevent or obstruct any member of his community from entering, lodging in, or otherwise

using, any Dhamashala, Sarai or Musafarkhana which is ordinarily open to members of his community, or

(j) prevents or obstructs or causes to prevent or obstruct any member of his community from entering or using any place of worship such as temple, mosque, church, gurudwara or any cemetery, crematorium or burial ground which is ordinarily open to members of his community.

4. (1) Whoever imposes any social disability on any member of his community shall on conviction be punished with imprisonment of either description which may extend to six months or with fine, which may extend to one thousand rupees or with both.

(2) Whoever aids or abets in the commission of any offence punishable under this Act or connives at the commission of any such offence or harbours any offender or destroys any evidence shall on conviction be punished with imprisonment of either description which may extend to six months or with fine, which may extend to one thousand rupees or with both.

5 Notwithstanding anything contained in the Code of Criminal Procedure, 1973, every offence under this Act—

(a) shall be cognizable, and

(b) may, with the permission of the Court be compoundable.

6 (1) A Police Officer may—

(a) remove or cause to be removed any barricade or obstruction erected, placed or found in any place, if such police officer has reasonable ground to believe that the barricade or obstruction was so erected or placed in order to be used for the purpose of committing an offence under this Act; or

(b) open or cause to be opened any gate or door, if the police officer has reasonable ground to believe that such gate or door was closed for the purpose of committing an offence under this Act

(2) Whenever a police officer has reasonable ground to believe that any person is likely to commit an offence under this Act, he may arrest the person without a warrant and deliver him into the custody of the officer-in-charge of a police station who may either release the person arrested on his executing a bond with or without surety for his appearance in a Magistrate's Court or take or cause to be taken the person arrested before a Magistrate within a period of twenty-four hours of such arrest

(3) When a person appears before a Magistrate in compliance with a bond executed by him under sub-section (2) or is brought before a Magistrate, he may require such person to show cause why he should not be ordered to execute a bond with or without sureties for his good behaviour for such period not exceeding three years as the Magistrate may think fit. If after due inquiry, the Magistrate is satisfied that such person should execute a bond with or without sureties, the Magistrate shall make an order accordingly and the provisions of section 107 and sections 112 to 123 (both inclusive) of the Code of Criminal Procedure, 1973, shall apply to or in relation to all orders to furnish security made under this sub-section.

Offences
under this
Act to be
cognizable
and com-
pound-
able.

Police
Officers to
take
action in
cases of
imposition
of social
disabili-
ties

STATEMENT OF OBJECTS AND REASONS

The outdated and unconstitutional practices such as untouchability, boycotts, etc., still prevail in various communities in the country, resulting in great harassment to individuals or groups. The harassment so caused, naturally gives rise to ill feeling and disharmony towards each other. This has far-reaching effects on the social life of the community. It is, therefore, necessary to root out these evils by putting a stop to the imposition of the various social disabilities. The objective can be achieved by enacting a suitable legislation for the purpose of providing for punishment to those who indulge in such evil practices.

Hence this Bill

VITHAL GADGIL

BILL No IX OF 1977

A Bill to amend the Pensions Act, 1871.

Be it enacted by Parliament in the Twenty-eighth year of the Republic of India as follows:—

- 23 of 1871. 1. This Act may be called the Pensions (Amendment) Act, 1977. Short title.
2. Section 4 of the Pensions Act, 1871 shall be re-numbered as sub-section (1) thereof and after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:— Amend-
ment of
section 4.

“(2) Nothing in this section shall apply to pension payable to, or in respect of, any person appointed to a public service or post in connection with the affairs of the appropriate Government.”.

STATEMENT OF OBJECTS AND REASONS

Section 4 of the Pensions Act, 1871, bars a suit relating to any pension conferred by the Government or any former Government. This provision is unjust in principle, anachronistic, unrealistic and inconsistent with the basic legal character of the Pensioner's right and in that sense, opposed to article 19(1) (f) of the Constitution. The provision is based apparently on a common law rule which itself is of doubtful validity.

A change in law is required in the interest of social justice so that the drastic provision excluding the right to sue contained in the section should be done away with.

Hence this Bill.

VITHAL GADGIL.

S. S. BHALLERAO,
Secretary-General.